REMARKS

Claims 19, 22-28 and 38 stand rejected under §102(a) or (e) over the '964 patent. The '964 patent is said to disclose "globular structures" or "nodules" which the examiner believes to be the same as the instantly claimed bone spheroids. However, the nodules described in the '964 patent cannot reasonably be construed as similar to, much less the same as, the spheroids of the claimed invention. The reasons for this conclusion are further supported in the declaration of Dr. Julie Glowacki under 37 C.F.R. §1.132, and are as follows:

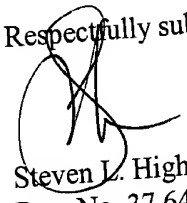
- Glowacki Declaration at para. 5: The '964 patent requires use of undifferentiated marrow cells, which are very different from the differentiated cells defined in the instant application at page 13.
- Glowacki Declaration at para. 5: The '964 patent requires ascorbic acid and dexamethasone to induce formation of macroscopic nodules, whereas the instant application does not require such for the formation of bone spheroids.
- Glowacki Declaration at para. 5: The '964 patent requires a substrate, upon which nodules are formed and with which the nodules are co-implanted, whereas the instant application does not require a support for bone spheroids.
- Glowacki Declaration at para. 5: The '964 patent does not utilize "serum free" conditions to achieve formation of spheroids by bone precursor cells.

Reconsideration and withdrawal of this rejection, as well as those advanced under 35 U.S.C. §103 over the same reference, is further requested in light of the foregoing.

In light of the foregoing, applicants respectfully submit that all claim are in condition for allowance, and an early notification to that effect is earnestly solicited. The examiner is invited

to contact the undersigned at the telephone number listed below with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Steven L. Highlander
Reg. No. 37,642
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-3184

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